



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

January 6, 2009

MORTGAGEE LETTER 2009-03

TO: ALL APPROVED MORTGAGEES

SUBJECT: HOPE for Homeowners Origination and Servicing Guidance Supplement

On behalf of the Board of Directors (Board) for the HOPE for Homeowners Program, HUD published on October 1, 2008 Mortgagee Letter 2008-29, *HOPE for Homeowners Origination Guidance*, describing procedures for originating a new FHA-insured mortgage authorized under the Housing and Economic Recovery Act of 2008 called the HOPE for Homeowners Program (H4H Program). That same day, HUD also published on behalf of the Board Mortgagee Letter 2008-30, *HOPE for Homeowners Servicing Guidance*, which provided HUD-approved servicing mortgagees with servicing and loss mitigation guidance on the Program. Under the H4H Program, certain borrowers facing difficulty in paying their mortgages may be eligible to refinance into affordable FHA-insured mortgages. The H4H Program became effective on October 1, 2008, and may continue to insure new mortgages through September 30, 2011.

On October 3, 2008, the President signed into law the Emergency Economic Stabilization Act of 2008 (EESA), which included a key change to the H4H Program that allows HUD to offer subordinate mortgage lien holders, in exchange for releasing their lien, an upfront payment in lieu of a share of HUD's fifty percent (50%) interest in future appreciation of the mortgaged property. EESA also amended how the borrower's pre-Program total monthly mortgage payment debt-to-income ratio (DTI) may be determined. This Mortgagee Letter, which incorporates the changes made by EESA, supplements Mortgagee Letters 2008-29 and 2008-30 and is effective immediately. Mortgagee Letters 2008-29 and 2008-30 continue to apply, except as modified by this Mortgagee Letter.

The information, directions, and guidance provided in this Mortgagee Letter reflect statutory requirements as well as the standards, policies and regulations adopted by the Board for the H4H Program.

Determining Pre-Program Mortgage Payment DTI

In Mortgagee Letter 2008-29, guidance was provided on how to reconstruct the borrower's aggregate total monthly mortgage payment DTI as of March 1, 2008. Under the Program as originally enacted and implemented, a borrower must have had a mortgage DTI of at least 31 percent as of March 1, 2008, to qualify for the Program. In light of changes authorized by EESA, lenders now have additional flexibility in qualifying borrowers with adjustable-rate mortgages under this pre-Program mortgage payment criteria.

Fixed-rate Mortgages

Due to statutory limitations, in the case of borrowers that have fixed-rate mortgages (or adjustable-rate mortgages (ARMs) for which there are no resets after March 1, 2008), lenders must continue to use the borrower's income and total monthly mortgage payments as of March 1, 2008, to determine whether the borrower meets this 31 percent pre-Program mortgage DTI requirement. When calculating the aggregate total monthly mortgage payment DTI as of March 1, 2008, for borrowers with fixed-rate mortgages or ARMs that do not reset after such date, the lender should continue to use the guidance provided in Mortgagee Letter 2008-29.

Adjustable-rate mortgages

For borrowers that had an adjustable-rate senior or subordinate mortgage on March 1, 2008, that has or may reset at some date after March 1, 2008, lenders now have the option of determining whether the borrower meets the 31 percent pre-Program mortgage DTI criteria using either:

1. The borrower's income and total monthly mortgage payment as of March 1, 2008; *or*
2. The borrower's income and total monthly mortgage payment *as of the date the borrower applied for the H4H mortgage.*

In either case, lenders may only use debt resulting from mortgages in existence as of March 1, 2008.¹ If a borrower has obtained an additional mortgage after March 1, 2008, that debt may not be considered when making this mortgage DTI calculation. These calculations should be made using the fully indexed and fully amortizing payment for the mortgage. In calculating the fully indexed total monthly mortgage payment as of a certain date (i.e., as of March 1, 2008, or the date of application) lenders should use the index rate prevailing on that date, plus the margin applicable after the expiration of any introductory interest rate, if any. The fully amortizing payment is based on the term of the loan, e.g., for a 2/28 loan the amortization schedule would be based on 30 years.

When calculating the mortgage payment DTI at the time of loan application for a borrower with an adjustable-rate mortgage that has or may reset at some date after March 1, 2008, the lender should:

1. Analyze the employment and income documentation it will use to qualify the borrower for the new H4H loan;
2. Obtain from the servicer(s) the total monthly mortgage payment due at the time of loan application, including any amounts due on subordinate liens; and

¹ If the borrower had a line of credit outstanding on March 1, 2008, the lender may use the total debt outstanding on that line as of the date of application.

For mortgages without escrows, the lender should obtain tax and insurance information from the borrower. If the borrower does not provide insurance information, then the servicer of the mortgage should estimate the monthly cost of hazard insurance (and flood insurance, if applicable) based on the property's location and the rate in effect at the time of loan application. If the borrower does not provide real estate tax information, the lender should obtain it from public records.

3. Verify that only debt resulting from mortgages outstanding as of March 1, 2008 is being used to make the calculation.

Increased Loan-to-Value Ratios and Modified Income Ratios

In Mortgagee Letter 2008-29, guidance was provided that limited the loan-to-value (LTV) ratio of the new H4H mortgage to 90 percent of current appraised value of the property, including the Upfront Mortgage Insurance Premium (UFMIP). In addition, the guidance provided that a borrower generally was eligible for the Program only if under the H4H mortgage the borrower would have a mortgage payment debt-to-income and a total debt-to-income ratio of not more than 31 percent and 43 percent, respectively. The guidance, however, also permitted a borrower to exceed these ratios (up to a maximum mortgage payment debt-to-income ratio of 38 percent and a total debt-to-income ratio of 50 percent) if the lender qualified the borrower through a 3-month trial modification process.

In light of changes made by EESA and the Board, lenders now have two alternative LTV and DTI methodologies they may use to qualify borrowers for the program:

1. The Program mortgage may have an LTV of greater than 90 percent (up to a maximum of 96.5 percent) of current appraised value (including the UFMIP) provided the borrower's mortgage payment-to-income ratio and a total debt-to-income ratio under the new Program mortgage do not exceed 31 percent and 43 percent, respectively, *or*
2. If the Program mortgage has an LTV of 90 percent or less of current appraised value (including the UFMIP), the borrower's mortgage payment debt-to-income ratio and a total debt-to-income ratio may be up to 38 percent and 50 percent, respectively. Borrowers may immediately qualify for the Program under the mortgage payment debt-to-income ratio and total debt-to-income ratio up to these maximums without any trial modification process.

Extending Mortgage Term to 40 Years

Under the H4H Program, lenders may now offer borrowers a mortgage with a term of between 30 and 40 years. However, in order for a Program mortgage to qualify for inclusion in a pool of Program mortgages to back securities insured by the Government National Mortgage Association (Ginnie Mae), the mortgage should be for a term of either 30 or 40 years to maintain consistency in the mortgages within a securitization pool. If the lender intends to hold the Program mortgage, then this operational limitation would not apply, and the lender is free to set the term of the mortgage at 30 years, 40 years, or some intermediate number of years.

Multiple Unit Properties

In Mortgagee Letter 2008-29, eligible properties were limited to one unit. Property eligibility has been expanded to include two-, three- and four-unit properties. The borrower must occupy one of the units as the borrower's primary residence, and the borrower may not have an ownership interest in any residential property other than the two- to four-unit property. The amount of the H4H mortgage may not exceed a nationwide maximum mortgage limit as follows:

One-unit	\$550,440
Two-units	\$704,682
Three-units	\$851,796
Four-units	\$1,058,574

For a three- or four-unit property, lenders are reminded of FHA's standard policy requiring those properties to be self-sufficient [HUD Handbook 4155.1 REV-5, paragraph 1-8 C].

Annual Premium

Due to a statutory requirement, the 1.5 percent annual premium must be collected for the life of the H4H mortgage.

Shared Equity Mortgage – Definition of Initial Equity

As a condition of the Program mortgage, the borrower must share with HUD a portion of the initial equity in the property.² The definition of initial equity to be shared with HUD has been modified. To determine the initial equity amount, lenders should deduct the original principal balance on the Program mortgage from the lesser of:

- (1) the appraised value of the property at the time of origination; *or*
- (2) the outstanding amount due under all existing senior mortgages, existing subordinate mortgages, and non-mortgage liens on the property.

² The Act provides that, in the event of refinance, sale or other disposition, HUD receive the following percentage of initial equity:

During Year 1	100% of equity is paid to FHA
During Year 2	90% of equity is paid to FHA
During Year 3	80% of equity is paid to FHA
During Year 4	70% of equity is paid to FHA
During Year 5	60% of equity is paid to FHA
After Year 5	50% of equity is paid to FHA

Appreciation Share Options

In exchange for a full release of liens and the release of the borrower from all indebtedness under the related subordinate mortgage, a qualifying existing subordinate mortgage lien holder may now elect to receive either an upfront payment or a share of HUD's 50% interest in future property appreciation, but not both. Subordinate lien holders whose write-off is less than \$2,500 are not eligible to receive an upfront payment or a share in future appreciation.

Upfront Payment Option

In exchange for a full release of liens and the release of the borrower from all indebtedness under the related subordinate mortgage, a subordinate mortgage lien holder may choose to receive a cash payment at closing equal to a percentage of the total principal and note rate interest they are writing off; see Exhibit A: Appreciation Worksheet, for payment calculation methodology. In the event a subordinate lien holder elects the upfront payment option:

- The subordinate lien holder will indicate this election on the Appreciation Worksheet.
- Not less than ten (10) business days prior to the scheduled date of closing the H4H loan, the originating lender will send an Appreciation Worksheet for each eligible subordinate mortgage lien, executed by the subordinate lien holder and the originating lender, to HUD's National Servicing Center (NSC) at the address provided below.
- Not less than five (5) business days prior to closing, the NSC will notify the originating lender of discrepancies noted on the Appreciation Worksheet, if any, and request corrections prior to closing.
- The originating lender will provide instructions to the closing agent to pay the calculated upfront payment(s) reflected on the Appreciation Worksheet previously provided to HUD.
- The originating lender will advance funds in the amount of the new mortgage *and* the amount necessary to pay the upfront payment(s) to the subordinate lien holder(s) that have chosen this option.
- Within fifteen (15) business days of the date of endorsement, HUD will automatically reimburse the originating lender the amount of the upfront payment.

Future Appreciation Option

In the event an eligible subordinate mortgage lien holder elects the future appreciation option, HUD will issue an Appreciation Share Certificate (ASC) in favor of each subordinate mortgage lien holder, providing it to the originating lender prior to closing.

- The subordinate lien holder will indicate this election on the Appreciation Worksheet.

- Not less than ten (10) business days prior to the scheduled date of closing the H4H loan, the originating lender will send an Appreciation Worksheet for each eligible subordinate mortgage lien, executed by the subordinate lien holder and the originating lender, to HUD's National Servicing Center (NSC) at the address provided below.
- Not less than five (5) business days prior to closing, the NSC will notify the originating lender of discrepancies noted on the Appreciation Worksheet, if any, and request corrections prior to closing.
- The originating lender will deliver the ASC to the closing agent along with closing instructions directing the closing agent to provide the ASC to the subordinate mortgage lien holder via any delivery method with receipt confirmation.
- The closing agent will deliver the ASC to the subordinate mortgage lien holder either at the closing or via certified mail.

ASCs are numbered and registered by holder name and address in HUD's system of records. In the event a holder elects to sell, trade or otherwise transfer its ASC, it must notify NSC of the transfer in writing at the address listed herein, by providing the ASC certificate number and the name, address and telephone contact information for the authorized representative of the transferee. Such notification must be on the letterhead of the holder and signed by an authorized representative of the holder. Only the registered holder may request changes to the holder data. If an ASC is lost or damaged the holder should contact NSC for replacement instructions.

Calculation of Future Appreciation

In cases where a property refinanced with a Program mortgage is sold in a transaction that does not involve a related party of the mortgagor, the amount of appreciation that has occurred since the origination of the Program mortgage will continue to be based on the gross proceeds from the sale of the property. For non-sale dispositions or sales to a related party of the mortgagor, the amount of appreciation will be calculated based on the appraised value of the property at the time of the disposition or sale. The related parties of a mortgagor include the immediate family of the mortgagor, as well as entities owned or controlled by the mortgagor or the mortgagor's immediate family. Further information on the definition of a related party may be found in 24 CFR § 4001.17.

As provided in Mortgagee Letter 2008-30, allowable closing costs incurred in connection with the sale or disposition of the property and a percentage of the value of any capital improvements to the home that increased the value of the property may be deducted from the gross proceeds or appraised value, as relevant.

First Payment Default and Submission of Case Binders for Endorsement

The endorsement process for the H4H Program will now conform to existing FHA standards, eliminating the previous requirement that lenders must submit the case binder within 120 days of closing in order for it to be eligible for insurance. When submitting a case binder for insurance endorsement under the H4H Program, lenders must:

- Include evidence in the case binder that the borrower made the first payment from their own funds within 120 days of the closing on the H4H loan³;
- Certify that the loan is current at the time of submission; *and*
- Certify that the lender did not bring the loan current to make it eligible for insurance.

Unendorsed Loans

In the event an H4H loan is not endorsed for FHA insurance, HUD will execute and record a release of the Shared Equity Note and Mortgage (SEM) and Shared Appreciation Note and Mortgage (SAM). HUD will not reimburse the originating lender for any upfront payment advanced to a subordinate lien holder and will have no liability to provide any payment to subordinate lien holders who elected the future appreciation option.

The originating lender will receive a refund of the upfront mortgage insurance premium and any periodic mortgage insurance premiums (MIP) received by HUD. If the originating lender funded an upfront payment in lieu of future appreciation, the originating lender may apply the refunded MIP first to reimburse itself for any amount advanced to a prior subordinate lien holder(s) as an upfront payment and will apply any remainder in accordance with normal servicing guidance. If the unendorsed H4H loan included a future appreciation option, HUD will notify the prior subordinate lien holder(s) that its ASC is void and request its return.

Sale and Payoff

Upon sale or other disposition of the property securing the Program mortgage, the borrower must satisfy both the SEM (if not already satisfied through refinancing) and the SAM. Upon receipt of a payoff request, HUD will provide the closing agent with the payoff amounts for the SEM and SAM. Within five (5) business days of the receipt of the SAM proceeds, HUD will notify the ASC holder(s) of the disposition of the property and provide instructions for redemption of the ASC, as applicable.

At time of settlement of an H4H loan, HUD assumes the position of any subordinate lien holder that chose the upfront payment option and will retain any appreciation distributions that would have otherwise been paid to that lien holder based on their priority position had that lien holder chosen the appreciation sharing option.

MERS Registration

The originating lender must register the H4H first mortgage in the Mortgage Electronic Registration System (MERS) as a MERS Original Mortgage. It is no longer a requirement that the SEM and SAM be registered in MERS. Originating lenders that choose to register the SEM and

³ Lenders are not eligible for claim payment if the first mortgage payment is not received within 120 days of loan closing.

SAM in MERS must pay the registration fee and may not pass the fee on to the borrower. When registering a SEM or SAM in MERS, HUD should be listed as both the investor and the servicer. HUD's MERS OrgID for the H4H program is 1007870.

Revised Versions of the SEM and SAM

Revised versions of the SEM and SAM are attached as Exhibits B and C. Lenders should use these revised versions as of the date of this mortgagee letter.

Document Delivery and Correspondence

All documents or questions related to servicing or satisfaction of SEM or SAM should be directed to:

U.S. Department of HUD
c/o C&L Service Corporation / Morris-Griffin Corporation
2488 East 81st Street, Suite 700
Tulsa, Oklahoma 74137

If you should have any questions concerning this Mortgagee Letter, call 1-800-CALLFHA.

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner